

Page 1 of 2

Applicant or Patentee: Richard C. Wilson and Patrick M. CulpepperSerial or Patent No: Reissue of 5,664,376Attorney's Docket No.: CBC-122-C

Filed or Issued: \_\_\_\_\_

Title: CORNER POST SUPPORT MEMBER

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) and 1.27 (c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

☐ the owner of the small business concern identified below:☐ an official of the small business concern empowered to act on behalf of the concern  
identified below:NAME OF SMALL BUSINESS CONCERN: ABCO, Inc. d/b/a Progressive Foam ProductsADDRESS OF SMALL BUSINESS CONCERN: 6753 Chestnut Ridge RoadBeach City, Ohio 44608

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9 (d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled CORNER POST SUPPORT MEMBER

by inventor(s) Richard C. Wilson and Patrick M. Culpepper described in:☒ the specification filed herewith.☐ application serial no. \_\_\_\_\_, filed \_\_\_\_\_.☐ patent no. \_\_\_\_\_, issued \_\_\_\_\_.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9 (c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9 (d), or a nonprofit organization under 37 CFR 1.9 (e). \*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

09391394-090799

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28 (b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Patrick M. Culpepper

TITLE OF PERSON IF OTHER THAN OWNER President

ADDRESS OF PERSON SIGNING 6753 Chestnut Ridge Road, Beach City, Ohio 44608

SIGNATURE Patrick M. Culpepper DATE July 20, 1993

662060-4626650

Our Reference: CBC-122-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Reissue of: 5,664,376

Applicants: Richard C. Wilson and  
Patrick M. Culpepper

Serial Number: Unknown

Filing Date: Concurrently herewith

Examiner/Art Group Unit: Unknown/Unknown

Title: CORNER POST SUPPORT MEMBER

COMMUNICATION REGARDING LITIGATION

Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

The applicant wishes to advise the Patent and Trademark Office that United States Patent No. 5,664,376 is involved in a litigation. Litigation information which is material to the patentability of the claims under consideration in the subject reissue will be sent shortly under separate cover. The applicant desires that the subject reissue application be examined immediately.

Respectfully submitted,

YOUNG &amp; BASILE, P.C.

*Darlene P. Condra*  
Darlene P. Condra  
Attorney for Applicant(s)  
Registration No. 37113  
(248) 649-3333

3001 West Big Beaver Rd., Suite 624  
Troy, Michigan 48084-3107

Dated: September 7, 1999  
DPC/cmp

0931294-090799

Attorney's Docket No. CBC-122-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Reissue of: 5,664,376

Applicants: Richard C. Wilson and  
Patrick M. Culpepper

Serial Number: Unknown

Filing Date: Concurrently herewith

Examiner/Art Group Unit: Unknown/Unknown

Title: CORNER POST SUPPORT MEMBER

REISSUE APPLICATION BY THE INVENTOR,  
OFFER TO SURRENDER (37 C.F.R. 1.178)

Assistant Commissioner for Patents  
Washington, DC 20231

The undersigned applicant of the accompanying reissue application for the reissue of letters patent for the improvement in CORNER POST SUPPORT MEMBER

Patent number 5,664,376 granted to him/her on September 9, 1997, of which

☒ ABCO, Inc. d/b/a Progressive Foam Products  
is now sole owner by assignment, and on whose behalf and with those assent the accompanying application is made,

hereby offers to surrender said letters patent.

July 20, 1999  
Date

Patrick M. Culpepper  
Signature(s)  
Patrick M. Culpepper  
(type or print names(s))

0091294-00790  
662060-46276660

Our Reference: CBC-122-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

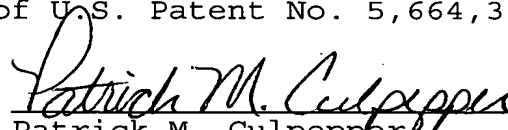
In the Reissue of: 5,664,376  
Applicants: Richard C. Wilson and  
Patrick M. Culpepper  
Serial Number: Unknown  
Filing Date: Concurrently herewith  
Examiner/Art Group Unit: Unknown/Unknown  
Title: CORNER POST SUPPORT MEMBER

CONSENT OF ASSIGNEE TO REISSUE

Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

ABCO, Inc. d/b/a Progressive Foam Products,  
owner of the entire right, title and interest in and to  
U.S. Patent No. 5,644,376 as reflected in the Assignment  
recorded on December 7, 1994 at Reel 7315/Frame 385 in  
accordance with the provisions of 37 CFR §1.172 hereby  
consents to the reissue of U.S. Patent No. 5,664,376.

  
Patrick M. Culpepper

Its President

Dated July 20, 1998

09391294-090799

Our Reference: CBC-122-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Reissue of: 5,664,376

Applicants: Richard C. Wilson and  
Patrick M. Culpepper

Serial Number: Unknown

Filing Date: Concurrently herewith

Examiner/Art Group Unit: Unknown/Unknown

Title: CORNER POST SUPPORT MEMBER

REQUEST FOR TRANSFER OF DRAWINGS FROM  
ORIGINAL PATENT TO REISSUE APPLICATION

Assistant Commissioner of Patents  
 Washington, D.C. 20231

Sir:

Please transfer the drawing from original patent, 5,664,376 filed on April 29, 1996, for the invention entitled Corner Post Support Member to the reissue application, the specification of which is attached hereto.

Respectfully submitted,

YOUNG &amp; BASILE, P.C.



Darlene P. Condra  
 Attorney for Applicant(s)  
 Registration No. 37113  
 (248) 649-3333

3001 West Big Beaver Rd., Suite 624  
 Troy, Michigan 48084-3107

Dated: September 7, 1999  
 DPC/llw/slc/cmp

0931294-09099

Our Reference: CBC-122-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Reissue of: 5,664,376  
Applicants: Richard C. Wilson and  
Patrick M. Culpepper  
Serial Number: Unknown  
Filing Date: Concurrently herewith  
Examiner/Art Group Unit: Unknown/Unknown  
Title: CORNER POST SUPPORT MEMBER

REISSUE APPLICATION DECLARATION BY THE INVENTORS

Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

We, Richard C. Wilson and Patrick M. Culpepper, declare that we are citizens of the United States Of America and are the named inventors of U.S. Patent No. 5,542,222 and of the foregoing specification, for which invention we solicit a reissue patent. We believe that our patent is partly inoperative or invalid for the reason that we claimed less than we had a right to claim in the patent. Further, we believe that our patent is partly inoperative or invalid for the reason that claim 1 contains vague terminology that does not clearly point out and distinctly claim the subject matter which we regard as our invention according to 35 U.S.C. §112. Specifically, the claim language of claim 1 that the support member is "a single member having a length... corresponding to the length of the corner of the building" is vague, may be misleading, and could be misconstrued or interpreted that the invention requires a single member that extends the full length of the corner of the building where multiple pieces can act as a full equivalent.

The error is believed to have occurred on or before December 2, 1996 in the first amendment to the

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application for Letter Patent 5,664,376. We believe that the error occurred because we and our attorney did not appreciate or realize the possible misinterpretation of the wording of the claim when constructing the amended claim 1. Although the phrase "a single member" was used before the December 2, 1996 date, and was actually used in the amendment dated November 14, 1995 of the parent case (Letter Patent 5,542,222), we believe that the combination of the phrases "a single member" and "...have lengths corresponding to the length of the corner of the building" in claim 1 unduly restricts the scope of our broad claim 1 by possible interpretation that a single member extends the length of the corner of the building. This combination of the phrases was placed in the broad claim 1 in the amendment dated December 2, 1996.

The errors arose without any deceptive intention on the part of the Applicant or his attorneys. The error sought to be corrected by this application for reissue patent is to correct the vague and ambiguous language in the claims of the patent, which we believe includes unnecessary limitations which unduly restrict the scope of claims 1-4. Specifically, claim 1 recite a limitation which is unessential to the patentability of claim 1 and which is unessential to the clearly pointing out and distinctly claiming requirements of 35 U.S.C. §112. It is believed to be immaterial that a single member has a length corresponding to the length of the corner of the building. New independent claim 5 eliminates the term "single" before "member" from claim 1 of Letter Patent 5,664,376. New claims 6-8 are copies of original claims 2-4 and are dependent on claim 5. New independent claim 9 eliminates the phrase "wherein said first and second longitudinally extending portions have lengths corresponding to the length of the corner of the building" from claim 1 of Letter Patent 5,664,376. New claims 10-12 are copies of original claims 2-4 and are dependent on claim 9. New independent claim 13



eliminates both the term "single" and the aforementioned phrase from claim 1 of Letter Patent 5,664,376. New claims 14-16 are copies of original claims 2-4 and are dependent on claim 13. New independent claim 17 includes the changes in claim 13 and further eliminates the term "building" and replaces it with --rigid structure--. New claims 18-20 are copies of original claims 2-4 and are dependent on claim 17.

The Examiner saw what was intended, when he correctly states what was meant by the amendment of December 2, 1996 and the argument in his Reason for Allowance dated February 28, 1997:

"...no prior art of record, alone or in combination, teaches or fairly suggests a support member having first and second support flanges extending outwardly from first and second portions of a single member, respectively, the first and second flanges extend continuously along the entire length of the first and second portions."

From this quote, it is evident that the Examiner attached no importance whatsoever to the proposition that the invention requires "a single member" to extend the full length of the corner of the building. Rather, the Examiner understood the importance of having flanges which are continuous so that when the support structure is applied, whether as a single seamless piece or made up of several pieces, the corner support and the flanges are substantially continuous. Therefore, the added claims correct the language of the original claims to conform to the Examiner's stated conclusion regarding what is patentable.

We declare that all statements are made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 Title 18 of the United States Code,

and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


POWER OF ATTORNEY

We hereby appoint the following attorney(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Thomas N. Young, Registration No. 20985  
Andrew R. Basile, Registration No. 24753  
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Donald L. Wood, Registration No. 20014  
Thomas D. Helmholtz, Registration No. 33181  
Denise M. Glassmeyer, Registration No. 31831  
Julia C. Dierker, Registration No. 33368  
Darlene P. Condra, Registration No. 37113  
Gary A. Smith, Registration No. 39376  
Christian J. Garascia, Registration No. 39986

Assignee requests that all communication and correspondence be directed to:

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YOUNG & BASILE, P.C.  
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Troy, MI 48084-3107

  
Richard C. Wilson

  
Patrick M. Culpepper

Date: 8/16/99

Date: August 16, 1999

ASSIGNEE: ABCO, Inc. d/b/a Progressive Foam Products  
6753 Chestnut Ridge Road  
Beach City, Ohio 44608

By:   
Patrick M. Culpepper  
Its President

Dated August 16, 1999

Assignment recorded in the U.S. Patent and Trademark Office on December 7, 1994 on Reel 7315/Frame 385.